HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 215 of 2003

Imran S/o Sri Mazid
R/o village Rahimpur
P.S. Gangnahar, Roorkee
District Haridwar ……Applicant

Versus

Principal Judge,
Family Court, Haridwar and other …….Respondents

Hon'ble J. C. S. Rawat, J.

Heard Sri K. S. Verma learned counsel for the applicant and Sri Sanjeev Singh learned counsel for the respondent nos.2, 3 & 4.(wife and children).

This criminal revision has been filed against the judgment and order dated 01.10.20003 passed by the Principal Judge, Family Court, Haridwar in Case No.64/2003, whereby the Principal Judge has rejected the application of the wife (Smt. Raisa) for maintenance on the ground that she had already been divorced by the applicant. However, the Principal Judge has directed the revisionist-husband to pay the maintenance @ Rs.500/- (each) per month to the two children, who were living with their mother.

The challenge has been made on the ground before this Court that both the children are more than two years old and the revisionist-father is entitled to take their custody and as such the minor children are not entitled to receive the maintenance allowance. It is admitted that the two sons namely, Rizwan and Abdul were born from the wedlock of Imran and Smt. Raisa. The applicant has filed a suit under section 25 Guardian and Wards Act for the custody of the children which is pending before the competent court.

The wife, whose application has been rejected, has not made any challenge before this Court and as such the order dated 1.10.2003 is final against the wife. It is not disputed that both the children namely Rizwan and Abdul are living with their mother.

The learned trial court has held that the husband had sufficient means to maintain his children and he had neglected or refused to maintain both the children.

Keeping in view of the above, I am in agreement with the finding of the learned Principal Judge, Family Court and I do not find any illegality in order dated 1.10.2003 passed by the learned Principal Judge, Family Court, Haridwar and the learned Principal Judge has not acted without jurisdiction. Therefore, the revision lacks merit and is liable to be dismissed.

The revision is hereby dismissed in limine.

(J. C. S. Rawat, J.)

Dated 27.9.2004

LSR